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EXAMINER

NGUYEN, TAN D

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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07/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/873,815	Applicant(s) LAVORGNA ET AL.	
	Examiner Tan Dean D. Nguyen	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,8-13,39-45,47-57 and 59-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6,8-13,39-45,47-57 and 59-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed 3/29/07 has been entered. Claims 2-6, 8-13, 39-45, 47-57 and 59-64 are pending and rejected as followed.

Claim Rejections - 35 USC § 112

1. Claims 39, 2-6, 8-13 (method), 40-45, 47-51 (system), 52-57, 59-63 (apparatus), and 64 (product) are rejected under 35 U.S.C. 112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As of 3/29/07, independent method claim 39 is as followed:

39. (currently amended) A method for managing business metrics for a business entity using a server system coupled to a database and at least one client system, the business entity having a plurality of business units, said method comprising the steps of:

(a) storing in the database a plurality of web pages including a create template web page;

(b) prompting a first user to create a customized template for receiving business metrics by displaying at the at least one client system the create template web page, the create template web page prompts the first user to enter data including at least one of a template name, a frequency, a first due date, a contact name, and a template description, the create template web page prompts the first user to define data fields to be displayed on the customized template and a type of business metrics to be entered

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into the customized template, the customized template is stored within the database for retrieval by a second user of the at least one client system for inputting business metrics;

c) prompting the first user to link a metric target with a data field displayed on the customized template, wherein, the mettle target is at least one of a level and a weight;

(d) creating at least one hierarchy of entities within the business entity including storing within the database a relationship between each of the business units included within the business entity;

(e) linking the customized template to the at least one hierarchy of entities for restricting access to the customized template to only selected business units included within the business entity;

(f) linking the data fields included within the customized template to the at least one hierarchy of entities for combining data for a plurality of selected business units included within the business entity;

(g) displaying the customized template at the at least one client system to prompt the second user to enter data about business mettles relating a business unit linked to the customized template, the second user enters the data about business mettles into the data fields displayed on the customized template;

(h) storing the data about the business mettles in the database;

(i) analyzing the data about the business metrics stored in the database using the server system for generating reports including the data about the business mettles; and

(j) generating, using the server, a plurality of reports including a first report showing the data about the business metrics for each business unit linked to the customized template including each business unit having entered data and the hierarchical relationship between each business unit, and a second report containing desired combinations of the data about the business metrics entered into linked data fields for each business unit linked to the customized template based on the hierarchy of entities.

Note: for convenience, letters (a)-(j) are added to the beginning of each step by the examiner.

(1) In independent method claim 39, step (c.), the phrase “prompting the first user to link a metric target with a data field displayed on the customized template, wherein, the mettle target is at least one of a level and a weight” is vague because as shown on Fig. 9, a “metric target” is a data/number entered such as “17” or “12” and cannot be considered as “at least one of a level and a weight” which is considered as “title” or “subheading” of the “Field oder”.

(2) Dependent claim 3 is vague and indefinite because it calls for a further limitation on step “(j) generating a plurality of reports further comprises” but the 2 steps deal with

“(k) performing a mathematical computation” and

“(l) generating a trend analysis”

are not related to the generating a report. In other word, it's not clear how the generating a computation or trend analysis further limit the step of “generating a report”.

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It appears that claim 3 further limits the step (i) of analyzing the business information.

Also, it's not clear the relationship of between steps (k) and (l) of claim 3 above? Is the mathematical computation being used anywhere? In the trend analysis? Similarly, dep. claims 42 (part of 40) and 54 (part of 52) which have similar limitations as in dep. claim 3, are rejected for the same reasons set forth in dep. claim 3 above.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 39, 2-6, 8-13 (method), 40-45, 47-51 (system), 52-57, 59-63 (apparatus), and 64 (product) are rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Applicant Admitted Prior Art (or AAPA) in view of (2) BERNADO et al (US 6,684,369) and/or (3) FLEMING et al (US 2002/0059264).

As shown above, claim 39, which calls for a method for managing business metrics for a business entity using a server system coupled to a database and at least one client system, the business entity having a plurality of business units, appear to have 2 scopes:

(1) creating a customized template by a 1st user for use on a client system which are covered by steps (a)-(f), and

(2) using the created template by the 1st user for managing the business metrics by a 2nd user on a client system as shown by steps (g)-(j) above.

Since the scope of invention dealing with managing business metrics using the customized template created by the 1st user and for use at the at least one client system by a 2nd user and as shown in [0003] of the specification, the managing business metrics normally require 4 steps: capturing the business metrics data, analyzing the captured data, reporting and assessing the data of the business metrics, only the captured data (or entering data) by the 2nd user as shown by steps (g)-(j) that are entered on the customized template will receive patentable weight since they meet the

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scope of the claim. Note that for limitation of “c) prompting the 1st user to link a metric target...”, this has no patentable weight since there are no discussion in steps (g)-(j) wherein the 2nd user enters “target number or data” on the “metric target” with a data field displayed on the customized template under “subheading” “level” or “weight”. In other word, the 2nd user does not enter any “target number” in Fig. 9 of the created customized template, therefore, this webpage is not active or being used in the managing of the business metrics of the 2nd user business, thus this feature of step (c) has no patentable weight because it’s not being used. Similarly, there no discussion of (2) the hierarchy of entities in steps (g)-(j) of the 2nd user business managing steps. Therefore, only steps (g)-(j) using the customized template created in (b) appear to be essential to the scope of the claimed invention. Note that step (g) only calls for “displaying the customized template at the at least one client system” and no limitation indicated that the customized template has to be come from steps (b)-(f) and therefore, the customized template can come from step (b). Also, for step (c) to work, the 2nd user has to enter “target numbers”.

As for independent method claim 39, as shown in the background of the invention [0003-0005], **AAPA** discloses a method for managing business activities (tasks) using business metrics measurements (numbers and data) by manually (1) compiling the data from multiple different business units, (2) analyzing the data, (3) generating a report about the result of the analysis, and (4) assessing the business metrics {[0003, 0004]}. Typical business metrics include service quality, ratings of customers, productivity and employee satisfaction survey {see [0003]}. **AAPA fails to**

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teach the carryout of the managing of the business activities automatically using a server system coupled to a database and web pages including a template and managing the business metrics using the template web page.

BERNADO et al fairly discloses a method for managing business activities (tasks) using business metrics by automatically using a server system coupled to a database and web pages including a template and managing the business activities using the template web page {see Figs. 5, Site Areas: "contact management area, customer tracking area, project management area, etc.", Fig. 1, Fig. 2}. It would have been obvious to modify the manually managing business activities of AAPA to automatically managing business activities using website/web pages as taught by **BERNADO et al** to obtain well known benefits of the Internet such as high efficiency, availability, accessibility, costs, etc. Note also that replacing manual activity with automatic/computer/Internet activity is well known and would have been obvious to a skilled artisan. In re Vennel, 120 UQ 192. Alternatively, it would have been obvious to modify the teachings of AAPA with **BERNADO et al** for the well known teaching, conversion from manual to automatic/computer/Internet, as taught in In re Vennel.

As for the steps of:

(a) , "storing in the database ...", this is taught in **BERNADO et al** Fig. 1, abstract;

(b) "prompting a 1st user (creator) to create ... ", this is taught in **BERNADO et al** col. 6, lines 32-67, col. 7, lines 7-67, Figs. 5-8, 12, 20};

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(c.) prompting the first user to link at least one of a "level" title/heading and a "weight" title/heading to a data field displayed on the customized template {see Fig. 12, col. 23, lines 57-62};

(g) "displaying the created template ..."

(h) "storing the business metrics ..."

(i) "analyzing the business metrics ...", are taught in BERNADO et al on col. 6, lines 36-60, col. 10, lines 19-53 "Stored Pages";

(j) "generating a plurality of reports, including a 1st report and a 2nd report", this is fairly taught in Figs. 26, 27, 28 "Forms", col. 20, lines 8-24, 56-65, col. 23, lines 49-60 and in view of AAPA [0004 "*capturing, analyzing, reporting and assessing business metrics*"]. As for the different types of reports or the different contents of the type of reports, these are merely reporting format parameters and the adjusting of these parameters to meet specific condition are within the skill of the artisan and would have been obvious, absent evidence of unexpected results. See In re Jones, 162 UQ 224.

Note that on col. 8, lines 38-42, BERNADO et al fairly teaches the use of Links (ActionLinks) or navigation links that enables certain entities (composers and approvers) to access the web page menu.

AAPA /BERNADO et al teaches claim 1 except for steps (d), (e) and (f).

However, as cited above, these steps are irrelevant or receive no patentable weight because it's dealt with how the customized template is created but not being used and thus are considered as irrelevant, as discussed above.

In similar a business management **FLEMING et al** is cited to teach the concept of combining business data from multiple sources (business units) within an enterprise (entity) for analysis of historical trends and generating reports of the results/analysis to the entity for reviewing and making corrective actions in a today's fast paced, competitive and rapidly changing business market and wherein the reports containing information with respect to items (e), (d) and (f) {see Fig. 38, 39-41, [0009] to [0011], [0089] and 0147}}. It would have been obvious to modify the teachings of AAPA/BERNADO et al by combining business data from multiple sources (business units) and generating reports as taught by FLEMING et al to show business operation for each business entity linked to the customized template including each business unit having entered data and the hierarchy relationship between each unit as taught by FLEMING et al on Figs. 38-41.

As for dep. claims 2, 4-6, 8-12 (part of 39 above), which deal with parameters for creating a customized template using a 1st user or limitations with respect to steps (a)-(f), these do not further limit the claim scope of managing business metrics for a business entity using a server system coupled to a database and at least one client system using a 2nd user, and therefore, they have no patentable weight. Only the captured data (or entering data) by the 2nd user as shown by steps (g)-(j) that are entered on the customized template will receive patentable weight since they meet the scope of the claim which require data to be captured/entered and analyzed.

Alternatively, as for **dep. claim 2**, which deals with well known template creating/customizing parameters, i.e. having a calculation formula, this is non-essential

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to the scope of the claimed invention and is taught in BERNADO et al col. 6, lines 37-38.

Alternatively, as for dep. claim 3 (part of 39 above), which deal with well known data analysis parameters, i.e. performing at least 1 mathematical computation and generating a trend analysis, this is taught in FLEMING et al [0009].

Alternatively, as for dep. claim 4 (part of 39 above), which deal with well known template creating/customizing parameters, i.e. assign a definition to each data field, this is non-essential to the scope of the claimed invention and is taught in BERNADO et al Figs. 6-7.

Alternatively, as for dep. claim 5 (part of 39 above), which deal with well known template creating/customizing parameters, i.e. creating a data field for validating a business metrics, this is non-essential to the scope of the claimed invention and is taught in BERNADO et al cols. 8, 11-12.

Alternatively, as for dep. claim 6 (part of 39 above), which deal with well known template creating/customizing parameters, i.e. a drop-down box or list for entering data, this is non-essential to the scope of the claimed invention and is taught in BERNADO et al Figs. 6 or 16 or FLEMING et al Fig. 4 or 13.

Alternatively, as for dep. claims 8-9 (part of 39 above), which deal with well known template creating/customizing parameters, i.e. linking of an data to other data or field or other elements, these are non-essential to the scope of the claimed invention and are taught in BERNADO et al col. 10, lines 40-50, col. 14, lines 24-26.

Alternatively, as for dep. claims 10-13 (part of 39 above), which deal with well known template creating/customizing parameters, i.e. features such as editing, changing , modifying, etc., these are non-essential to the scope of the claimed invention and are taught in BERNADO et al col. 8, lines 15-20, col. 11, lines 48-67.

As for Independent system claim 40 and independent apparatus claim 52, which are basically the system to carry out the independent method of claim 39 as shown above, they are rejected over the system of AAPA /BERNADO et al and/or FLEMING et al to carry out the rejections of the method claim 39 as indicated above. Alternatively, the setting up a computer system to carry out the respective computer implemented method would have been obvious to a skilled artisan.

As for dep. claim 41-45, 47-51, 53-57, 59-63, which have similar limitation as in dep. claims 2, 4-6, 8-12 above, they are rejected for the same reasons set forth in the rejections of dep. claims 2, 4-6, 8-12 above.

As for Independent computer program product claim 64, which is basically the computer program product to carry out the independent method of claim 39 as shown above, they are rejected over the computer program product of AAPA /BERNADO et al and/or FLEMING et al to carry out the rejections of the method claim 39 as indicated above. Alternatively, the setting up a computer program product to carry out the respective computer implemented method would have been obvious to a skilled artisan.

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6. **Claims 39, 2-13, 40-51, 52-63, and 64 are rejected (2nd time) under 35 U.S.C. 103(a) as being unpatentable over (1) Applicant Admitted Prior Art (or AAPA) in view of (2) FLEMING et al (US 2002/0059264).**

As shown above, claim 39, which calls for a method for managing business metrics for a business entity using a server system coupled to a database and at least one client system, the business entity having a plurality of business units, appear to have 2 scopes:

(1) creating a customized template by a 1st user for use on a client system which are covered by steps (a)-(f), and

(2) using the created template by the 1st user for managing the business metrics by a 2nd user on a client system as shown by steps (g)-(j) above.

Since the scope of invention dealing with managing business metrics of the 2nd scope, the limitations with respect to how the template is created as shown in the 1st scope appear to be irrelevant, thus receiving no patentable weight.

As for method claim 39, as shown in the background of the invention [0003-0005], **AAPA** discloses a method for managing business activities (tasks) using business metrics measurements (numbers and data) by manually (1) compiling the data from multiple different business units, (2) analyzing the data, (3) generating a report about the result of the analysis, and (4) assessing the business metrics {[0003, 0004]}. Typical business metrics include service quality, ratings of customers, productivity and employee satisfaction survey {see [0003]}. **AAPA fails to teach the carryout of the managing of the business activities automatically using a server system coupled to a**

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database and web pages including a template and managing the business metrics using the template web page.

In similar a business management **FLEMING et al** is cited to teach the concept of combining business data from multiple sources (business units) within an enterprise (entity) for analysis of historical trends and generating reports of the results/analysis to the entity for reviewing and making corrective actions in a today's fast paced, competitive and rapidly changing business market and wherein the reports containing information with respect to items (e), (d) and (f) {see Fig. 38, 39-41, [0009] to [0011], [0089], [0134], and [0147]}. It would have been obvious to modify the teachings of AAPA by combining business data from multiple sources (business units) and generating reports as taught by FLEMING et al to show business operation for each business entity linked to the customized template including each business unit having entered data and the hierarchy relationship between each unit as taught by FLEMING et al on Figs. 38-41.

As for dep. claims 2-6, 8-13 (part of 39 above), they are rejected for the same reasons set forth above.

As for Independent system claim 40 and independent apparatus claim 52, which are basically the system to carry out the independent method of claim 39 as shown above, they are rejected over the system of AAPA / FLEMING et al to carry out the rejections of the method claim 39 as indicated above. Alternatively, the setting up a computer system to carry out the respective computer implemented method would have been obvious to a skilled artisan.

As for dep. claim 41-45, 47-51, 53-57, 59-63, which have similar limitation as in dep. claims 2, 4-6, 8-12 above, they are rejected for the same reasons set forth in the rejections of dep. claims 2, 4-6, 8-12 above.

As for Independent computer program product claim 64, which is basically the computer program product to carry out the independent method of claim 39 as shown above, they are rejected over the computer program product of AAPA / FLEMING et al to carry out the rejections of the method claim 39 as indicated above. Alternatively, the setting up a computer program product to carry out the respective computer implemented method would have been obvious to a skilled artisan.

7. Claims 39, 2-6, 8-13 (method), 40-45, 47-51 (system), 52-57, 59-63 (apparatus), and 64 (product) are rejected (3rd time) under 35 U.S.C. 103(a) as being unpatentable over (1) Applicant Admitted Prior Art (or AAPA) in view of (2) BERNADO et al (US 6,684,369), (3) FLEMING et al and (4) ABATE et al.

The teachings of AAPA /BERNADO et al / FLEMING et al is cited above. ABATE et al is merely to teach the limitation of step (c) above if the claim is amended to receive patentable weight by monitoring "business metrics" under multiple "subheadings" "planned", "target", "complete indicator" or "Variance to schedule" or "level", for the benefits of providing a more common, concise format for improving business performance and efficiency such as having early warning system and predictive control system to provide reliable output to customers and provide business leaders a snapshot of overall business execution health of the business managing metrics {see Figs. 2, [0002], [0007], [0009], [0020 – 0022], [0041-0042], [0045-0046]}.

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It would have been obvious to modify the teachings of AAPA /BERNADO et al /FLEMING et al by including the Figs. Of business metrics overview as taught by ABATE et al for at least one of the benefits cited above.

As for dep. claims 2-6, 8-13 (part of 39 above), they are rejected for the same reasons set forth above and further in view of ABATE et al.

As for Independent system claim 40 and independent apparatus claim 52, which are basically the system to carry out the independent method of claim 39 as shown above, they are rejected over the system of AAPA / BERNADO et al /FLEMING et al and ABATE et al to carry out the rejections of the method claim 39 as indicated above. Alternatively, the setting up a computer system to carry out the respective computer implemented method would have been obvious to a skilled artisan.

As for dep. claim 41-45, 47-51, 53-57, 59-63, which have similar limitation as in dep. claims 2, 4-6, 8-12 above, they are rejected for the same reasons set forth in the rejections of dep. claims 2, 4-6, 8-12 above.

Response to Arguments

8. Applicant's arguments on pages 17-28 filed 3/27/07 with respect to the 103 rejections of claims 2-13, 39-64 over AAPA in view of BERNADO et al and/or FLEMING et al are not persuasive:

1) Applicant's main argument that AAPA /BERNADO et al and/or FLEMING et al fails to teach step (c) of : *"and, prompting the first user to link a metric target with a*

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data field displayed on the customized template, wherein the metric target is at least one of a level and a weight" is not persuasive because:

Since the scope of invention dealing with managing business metrics using the customized template created by the 1st user and for use at the at least one client system by a 2nd user and as shown in [0003] of the specification, the managing business metrics normally require 4 steps: capturing the business metrics data, analyzing the captured data, reporting and assessing the data of the business metrics, only the captured data (or entering data) by the 2nd user as shown by steps (g)-(j) that are entered on the customized template will receive patentable weight since they meet the scope of the claim. Note that for limitation of "c) prompting the 1st user to link a metric target...", this has no patentable weight since there are no discussion in steps (g)-(j) wherein the 2nd user enters "target number or data" on the "metric target" with a data field displayed on the customized template under "subheading" "level" or "weight". In other word, the 2nd user does not enter any "target number" in Fig. 9 of the created customized template, therefore, this webpage is not active or being used in the managing of the business metrics of the 2nd user business, thus this feature of step (c) has no patentable weight because it's not being used. Similarly, there no discussion of (2) the hierarchy of entities in steps (g)-(j) of the 2nd user business managing steps. Therefore, only steps (g)-(j) using the customized template created in (b) appear to be essential to the scope of the claimed invention. Note that step (g) only calls for "displaying the customized template at the at least one client system" and no limitation indicated that the customized template has to be come from steps (b)-(f) and therefore,

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the customized template can come from step (b). Also, for step (c) to work, the 2nd user has to enter "target numbers" but the claim does not have this limitation.

2) Applicant' comments that the examiner has to give weight for every element of the claim as cited in MPEP sections 2131 and 2143.03, this is not found persuasive because only features of the customized template that are used for managing business metrics for the 2nd user are receiving patentable weight because that what the scope of the claim is calls for. The scope does not call for a method for "creating a customized template" by the 1st user and then using it by the 2nd user". Moreover, for step (c) to work, the 2nd user has to enter "target number" under the "level" field and there are no citation of the 2nd user entering the target numbers in the claims and therefore, the limitation of as argued does not work in the managing business metrics of the 2nd user.

No claims are allowed.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

No claims are allowed.

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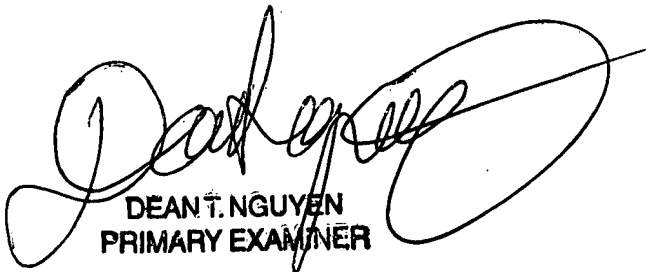
10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (703) 306-5771, or e-mail CustomerService3600@uspto.gov.

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (703) 308-2053 or (571) 272-6806 (by April 15, 2005). My work schedule is normally Monday through Friday from 7:00 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (703) 308-2702. The FAX phone numbers for formal communications concerning this application are (703) 872-9306. My personal Fax is (703) 872-9674. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn
July 7, 2007



DEAN T. NGUYEN
PRIMARY EXAMINER